

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

OSWALDO NIEVES, JR.,

Plaintiff,

-against-

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

1:23-cv-02667 (JLR)

SCHEDULING ORDER

JENNIFER L. ROCHON, United States District Judge:

Through a notice of electronic filing, the Court shall notify the Commissioner of the Social Security Administration through its Office of General Counsel and the U.S. Attorney's Office for the Southern District of New York of the filing of this case, brought pursuant to 42 U.S.C. § 405(g). By separate Order today, the Court is referring this case to the assigned Magistrate Judge for a report and recommendation on any motion for judgment on the pleadings. In accordance with this District's Standing Order governing challenges to denials of social security benefits (*see In re: Briefing of Social Security Cases*, 22-MC-00329 (LTS), M 10-468), the following briefing schedule applies:

- **Within 60 days of service**, the Commissioner must serve and file the Electronic Certified Administrative Record (e-CAR), which will constitute the Commissioner's answer, or otherwise move against the complaint.
- If the Commissioner wishes to file a motion for judgment on the pleadings, the Commissioner must do so **within 30 days** of the date on which the e-CAR was filed. The motion must contain a full recitation of the relevant facts and a full description of the underlying administrative proceeding.
- The plaintiff must file an answering brief **within 30 days** of the filing of the Commissioner's motion.
- The Commissioner may file a reply **within 14 days** thereafter.


In addition, to conserve resources, to promote judicial efficiency, and in an effort to achieve a faster disposition of this matter, it is hereby ORDERED that the parties must discuss whether they are willing to consent, under 28 U.S.C. § 636(c), to conducting all further proceedings before the assigned Magistrate Judge.

If both parties consent to proceed before the Magistrate Judge, counsel for Defendant must, **within two weeks of the date of this Order**, file on ECF a fully executed Notice, Consent, and Reference of a Civil Action to a Magistrate Judge form, a copy of which is attached to the Order of Reference (and also available at <https://www.nysd.uscourts.gov/node/754>). If the Court approves that form, all further proceedings will then be conducted before the assigned Magistrate Judge rather than before the undersigned.

If either party does not consent to conducting all further proceedings before the assigned Magistrate Judge, the parties must file a joint letter, **within two weeks of the date of this Order** advising the Court that the parties do not consent, **but without disclosing the identity of the party or parties who do not consent**. There will be no adverse consequences if the parties do not consent to proceed before the Magistrate Judge.

Dated: April 3, 2023
New York, New York

SO ORDERED.



JENNIFER L. ROCHON
United States District Judge